

**Subpart Q—Preemption of State Standards and Waiver Procedures for Nonroad Engines and Nonroad Vehicles**

SOURCE: 59 FR 36987, July 20, 1994, unless otherwise noted.

**§ 85.1601 Applicability.**

The requirements of this subpart are applicable to nonroad engines and nonroad vehicles.

**§ 85.1602 Definitions.**

As used in this subpart, all terms not defined shall have the meaning given them in the Clean Air Act, as amended.

*Commercial* means an activity engaged in as a vocation.

*Construction equipment or vehicle* means any internal combustion engine-powered machine primarily used in construction and located on commercial construction sites.

*Engine used in a locomotive* means either an engine placed in the locomotive to move other equipment, freight, or passenger traffic, or an engine mounted on the locomotive to provide auxiliary power.

*Farm equipment or vehicle* means any internal combustion engine-powered machine primarily used in the commercial production and/or commercial harvesting of food, fiber, wood, or commercial organic products or for the processing of such products for further use on the farm.

*Locomotive*. The definition of *locomotive* specified in 40 CFR 92.2 applies to this subpart.

*New* means a domestic or imported nonroad vehicle or nonroad engine the equitable or legal title to which has never been transferred to an ultimate purchaser. Where the equitable or legal title to an engine or vehicle is not transferred to an ultimate purchaser until after the engine or vehicle is placed into service, then the engine or vehicle will no longer be new after it is placed into service. A nonroad engine or vehicle is placed into service when it is used for its functional purposes. The term *ultimate purchaser* means, with respect to any new nonroad vehicle or new nonroad engine, the first person who in good faith purchases such new

nonroad vehicle or new nonroad engine for purposes other than resale. This definition of *new* shall not apply to locomotives or engines used in locomotives.

*New engine used in a locomotive* means new locomotive engine, as defined in 40 CFR 92.2.

*New locomotive*. The definition of *new locomotive* specified in 40 CFR 92.2 applies to this subpart.

*Nonroad engine* means:

(1) Except as discussed in paragraph (2) of this definition, a nonroad engine is any internal combustion engine:

(i) In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); or

(ii) In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

(iii) That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

(2) An internal combustion engine is not a nonroad engine if:

(i) The engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the Act; or

(ii) The engine is regulated by a federal New Source Performance Standard promulgated under section 111 of the Act; or

(iii) The engine otherwise included in paragraph (1)(iii) of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a